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"To enrich lives through effective and caring service"

April 9, 2015

To: Audit Committee

From: Dave Chittenden
Chief Deputy Director

Subject: **REVIEW OF BOARD POLICY NO. 5.055 – SERVICES
CONTRACT SOLICITATION PROTEST**

As discussed at the Audit Committee held on March 19, 2015, Board Policy 5.055, Services Contract Solicitation Protest was revised to include additional language regarding the solicitation protest process. The Chief Executive Office, Auditor-Controller, County Counsel and Internal Services Department reviewed the revisions which are included in the attached red-line version of the policy and are recommending the following:

- Policy Section – Revise current language and add new language identifying levels of the solicitation protest process.
- Date Issued/Sunset Date Section – Revise the sunset review date to April 16, 2019.

If you have any questions regarding this policy review or recommendations, please contact Joe Sandoval at (323) 267-2901, or via email at: jsandoval@isd.lacounty.gov.

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Attachment

c: Acting Executive Officer, Board of Supervisors
Interim Chief Executive Officer
Auditor Controller
County Counsel



Los Angeles County BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
5.055	Services Contract Solicitation Protest	06/01/09

PURPOSE

Establishes a process to allow proposers to seek review of a solicitation of a Board approved service contract and have it considered by the County.

REFERENCE

March 30, 2004 Board Letter continued to and approved at the April 6, 2004 Board Meeting, [Board Order 18](#) with attachment entitled: "[Services Contract Solicitation Protest Policy](#)"

June 3, 2004, Memo from Internal Services Director on [Update on the "Services Contracting Manual"](#)

December 2, 2008 [Board Order 38](#)

[March 17, 2009 Board Letter continued to and approved at March 31, 2009 Board Meeting, Board Order 55](#)

[February 28, 2013 Revised Services Contract Solicitation Protest Policy Implementation Guidelines](#)

POLICY

Each department shall comply with the Services Contract Solicitation Protest Policy Implementation Guidelines ~~so as to~~ allow a proposer or potential proposer to seek review of a solicitation of a Board-approved service contract.

As used in this Policy, a "proposer" is defined as any person or entity that ~~actually~~

submits a bid, proposal or other response to a services contract solicitation conducted by any department or agency whose governing Board is the Los Angeles County Board of Supervisors. "Proposer" also includes any person or entity that can demonstrate that it would have submitted a bid, proposal or other response to such a solicitation, but for a requirement or provision in the solicitation document that created an unfair disadvantage for the proposer. As used in this Policy, "proposal" includes a bid, proposal, or other response to a services contract solicitation.

All issued solicitations should include standard language on how a proposer or potential proposer may request a review. Any proposer or potential proposer who, in the course of a competitive solicitation for a Board-approved services contract, (i) would have submitted a proposal but for a requirement or provision in the solicitation document, or (ii) is determined non-responsive, or (iii) is not being recommended to the Board for award of a contract, may request the following applicable levels of review of such solicitation, as provided in this Policy:

~~The Implementation Guidelines shall include standard language to be used in solicitation documents to notify the proposers of the department's protocol for reviewing service contract solicitations. All County departments should include the language in all Board-awarded services contract solicitation documents.~~

~~A review may be granted if the request for a review is submitted timely and the following criteria are met:~~

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- ~~1. The firm/person requesting review is a proposer; and~~
- ~~2. The proposer requesting the review alleges in appropriate detail, with factual reasons, the appropriate ground for review as set forth below:~~
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 - ~~▪ For a review of solicitation requirements, the request must assert that either (a) application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the proposer or (b) due to unclear instructions, the process may result in the County not receiving the best possible responses from the proposers.~~
 - ~~-~~
 - ~~-~~
 - ~~▪ For review of a disqualified proposal, the request must assert the department made an error in disqualifying the proposal.~~
 - ~~-~~
 - ~~-~~
 - ~~▪ For review of a department's proposed contractor selection or to request a County Independent Review, the request for review must assert that but for one of the following, the proposer would have been the lowest cost, responsive and responsible bidder or ranked the highest rated proposer and was not selected for contract award recommendation:~~

~~o The department materially failed to follow procedures specified in its solicitation document; or~~

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~~o The department made identifiable mathematical or other errors in evaluating proposals, resulting in the proposal receiving an incorrect score and not being selected as the recommended contractor; or~~

~~o A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation; or~~

~~o Another basis for review as provided by state or federal law.~~

1). Solicitation Requirements Review – Asserts that (a) the application of the minimum requirements, evaluation criteria and/or business requirements unfairly disadvantages the proposer; or (b) due to unclear instructions, the process may result in the County not receiving the best possible responses from prospective proposers. This review is conducted by the department.

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2). Disqualification Review – Asserts that the department made an error in disqualifying the proposal. This review is conducted by the department.

3). Proposed Contractor Selection Review (PCSR) – Asserts that the proposer would have been the lowest cost, responsive, and responsible bidder or ranked the highest rated proposer and was not selected for contract award recommendation. This review is conducted by the department consistent with the criteria in the Implementation Guidelines.

4). County Independent Review – Assertions are the same as in the PCSR. This review is conducted by an independent reviewer that is not an employee of the contracting department and did not participate in the solicitation process. The reviewer conducts a review of documents submitted by the contracting department and protesting proposer based upon the Implementation Guidelines.

For all phases of review, the scope of review shall be limited to the issues presented in the request for review. For the County Independent Review, the scope of review may additionally include issues discovered by the proposer during the review of the departments' proposed contractor selection, but only if the proposer includes such discovered issues in the proposer's request for a County Independent Review. No other new or additional issues may be brought forward in the County Independent Review.

Departments will make the recommended proposer's proposal and corresponding detailed evaluation documents available for release in accordance with Implementation Guidelines issued under this Policy.

The ~~Internal Services Department, Chief Executive Office,~~ in consultation with County Counsel, ~~Chief Executive Office, Internal Services Department (ISD)~~ and Auditor-Controller, will maintain and issue revised Implementation Guidelines that are consistent with this Policy. ~~ISD and County Counsel shall provide training to all County departments on the revised Implementation Guidelines. ISD shall incorporate the revised Services Contract Solicitation Protest Policy, and the solicitation language in the Services Contracting Manual and applicable models.~~

RESPONSIBLE DEPARTMENT

Internal Services Department
Chief Executive Office
Auditor-Controller
County Counsel

DATE ISSUED/SUNSET DATE

Issue Date: May 6, 2004

Reissue Date: March 31, 2009

Review Date: February 28, 2013

Review Date: April 16, 2015

Sunset Date: May 6, 2008

Sunset Review Date: March 31, 2013

Sunset Review Date: March 31, 2015

Sunset Review Date: April 16, 2019